



Economic Regulation Authority

Engagement process for 2026 gas rate of return instrument

1 October 2025

Acknowledgement of Country

At the ERA we value our cultural diversity and respect the traditional custodians of the land and waters on which we live and work.

We acknowledge their continuing connection to culture and community, their traditions and stories. We commit to listening, continuously improving our performance and building a brighter future together.

Economic Regulation Authority

Level 4, Albert Facey House

469 Wellington Street, Perth WA 6000

Telephone 08 6557 7900

Email info@erawa.com.au

Website www.erawa.com.au

This document can also be made available in alternative formats on request.

National Relay Service TTY: 13 36 77

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Invitation to make nominations

Submissions are due by 4:00pm WST, Tuesday, 21 October 2025

The ERA invites stakeholders and interested parties to nominate suitably experienced people for appointment to the independent panel and consumer reference group.

We would prefer to receive your nominations via our online submission form <https://www.erawa.com.au/consultation>.

You can also send comments through:

Email: publicsubmissions@erawa.com.au

Post: Level 4, Albert Facey House, 469 Wellington Street, Perth WA 6000

For further information please contact

General Enquiries

Jason Dignard
Ph: 08 6557 7917
info@erawa.com.au

Media Enquiries

Ph: +61 428 859 826
media@erawa.com.au

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About this instrument and review

The Economic Regulation Authority is commencing a review of the gas rate of return instrument.

The gas instrument sets out the methods the ERA will use to estimate the allowed rate of return and value of imputation credits for gas transmission and distribution service providers.

This rate of return provides regulated businesses with funds to service the interest on their loans and give a return to shareholders.

The gas instrument is required under the National Gas Law as implemented in Western Australia by the *National Gas Access (WA) Act 2009*. Regulated gas pipelines in Western Australia include the Dampier to Bunbury Natural Gas Pipeline, the Goldfields Gas Pipeline and the Mid-West and South-West Gas Distribution Systems.

The ERA published the current gas instrument, the 2022 final Gas Rate of Return Instrument, on 16 December 2022.

The ERA is required to complete a review of the current gas instrument and publish a final version of our new gas instrument by 16 December 2026.

This document explains how we intend to engage with stakeholders to review the gas instrument.

The ERA is seeking nominations from interested and suitably experienced people for appointment to the consumer reference group and independent panel.

1. Introduction

1. The ERA is Western Australia's independent economic regulator and one of its functions is approving access arrangements for gas transmission and distribution services that facilitate third-party access to monopoly gas infrastructure. This includes the Dampier to Bunbury Natural Gas Pipeline, the Goldfields Gas Pipeline and the Mid-West and South-West Gas Distribution Systems.
2. The ERA's responsibilities are established under the National Gas Law (NGL) and National Gas Rules (NGR) as applied in Western Australia.¹ The ERA is guided in its role by the national gas objective set out in the NGL. This objective focuses on promoting the long-term interests of consumers of natural gas.
3. The rate of return a regulated gas pipeline receives on its regulatory asset base, known as the return on capital, is a key driver of the total amount of revenue the service provider derives from revenue determinations made by the ERA.
4. The rate of return provides a business with the money to pay the interest on its loans and give a return on equity to investors.
5. The rate of return is important for both consumers and owners of gas pipelines. To set an efficient rate of return:
 - We want to set the rate of return as low as possible so gas consumers do not pay more than needed.
 - However, the rate of return needs to be sufficiently high to encourage gas pipelines to continue to operate and invest in pipeline networks so consumers receive safe and reliable services.
6. The NGL requires the ERA to produce a gas rate of return instrument.²
7. The ERA published a gas rate of return instrument on 16 December 2022, which is binding on the ERA and service providers.
8. This document sets out the process that the ERA will undertake to produce the 2026 gas instrument.
9. This position paper is the first step in the process towards the determination of the 2026 gas instrument. The paper outlines and initiates the ERA's planned approach to fulfilling the consultation requirements for producing the 2026 gas instrument and does not discuss substantive technical rate of return issues.
10. The ERA invites stakeholders and interested parties to nominate members for the independent panel and consumer reference group.

¹ The *National Gas Access (WA) Act* 2009 implements the National Gas Access (Western Australia) Law and National Gas Rules for Western Australia. All references to National Gas Law (NGL) and National Gas Rules (NGR) referred to throughout this document are references to the NGL and NGR which apply in Western Australia.

² NGL, section 30D.

1.1 2026 gas rate of return instrument

11. The rate of return is the return expected by investors for investing in a business.
12. For Western Australia's regulated gas pipelines, the ERA determines an allowed rate of return on service providers' projected capital bases as part of setting regulated revenues for an access arrangement period (usually for a five-year term).
13. The ERA develops, maintains and applies the gas instrument in accordance with the requirements of the NGL.³ The gas instrument sets out how the ERA and regulated entities will calculate the return on debt, return on equity and the value of imputation credits (gamma) for the duration of the instrument.
14. The explanatory statement that will accompany the 2026 gas instrument will explain and set out the ERA's reasons for its decision, having considered the evidence before it during the gas instrument review process.
15. The 2026 gas instrument will be a binding instrument that will apply to all gas pipeline regulatory determinations made when it is in force.

1.2 Use of regulatory judgement

16. The ERA is the decision maker in the gas rate of return process. As an independent regulator, the ERA ensures that its decisions are well-reasoned and based on robust consultation.
17. Decisions are made under uncertainty and therefore require the exercise of judgement when considering evidence. The ERA's decisions must satisfy the relevant law and rules which state:⁴

The [ERA] may make an instrument only if satisfied the instrument will, or is most likely to, contribute to the achievement of the national gas objective to the greatest degree.
18. The estimation of the rate of return can be complex and contentious, and the rate of return is a material driver of regulated revenue.
19. In accordance with the efficiency objectives set out under the NGL and the promotion of the long-term interests of consumers of natural gas, the ERA will establish the rate of return at a level sufficient to meet the cost of capital for financing investment by gas service providers.
20. The rate of return produced by the 2026 gas instrument should be neither higher or lower than is needed to match a service provider's efficient financing costs.
21. As the 2026 gas instrument will be binding, the ERA will take measures to gather and test relevant evidence when making a judgement.
22. The ERA will be transparent in its reasoning and provide detailed explanations.

³ NGL, Part 1, division 1A.

⁴ NGL, chapter 2, part 1, division 1A, subdivision 2.

1.3 Gas instrument review

23. The ERA is required to review the current gas instrument and replace it by the fourth anniversary of when the current instrument was published.⁵ These reviews provide an opportunity to undertake a comprehensive review of approaches for determining the allowed rate of return on capital.
24. The NGL prescribes several consultation requirements that the ERA must fulfil to develop the 2026 gas instrument. The ERA will consider the advice, recommendations or submissions given by:⁶
 - A consumer reference group
 - Expert evidence
 - An independent panel review of the draft gas instrument
 - Other persons invited to make written submissions about the proposed draft instrument.
25. The ERA will also have regard to the revenue and pricing principles and other information the ERA considers appropriate in developing the gas instrument.⁷ Consistent with the requirements of the NGL and NGR, the ERA will focus on the overall methods, estimation methods, financial models, market data and other evidence for developing the rate of return.
26. As part of the review process the ERA will set out current indicative estimates of the rate of return and associated parameters. However, the specific values arising from the application of the ERA's approach to estimating the rate of return will be determined at each subsequent access arrangement review, by applying the approaches set out in the gas instrument at that point in time.
27. A series of gas instrument reviews has resulted in a mature instrument that is now used across all heavily regulated gas pipelines. The development and application of this instrument have allowed gas pipelines, stakeholders and the ERA to gain insights into how to implement a binding instrument.
28. Changing financial conditions over the 2022 gas instrument's four-year term also provide opportunities to consider how the instrument has dealt with changing market conditions.
29. Alongside other regulatory requirements, the ERA will be guided by the following global considerations for the 2026 review:
 - We aim to deliver an efficient, forward-looking, market-based rate of return.
 - We will simplify, refine and improve approaches where possible, informed by market developments, academic studies and regulatory practice.
 - We recognise that expected rates of return are largely unobservable, which means that there may not be one perfect way to estimate returns.
 - We recognise that certain areas of the rate of return may have multiple valid approaches, which necessitate the use of our judgement.

⁵ NGL, section 30P(2).

⁶ NGL, sections 30G to 30K.

⁷ NGL, section 30D.

- We recognise that stability and predictability of the gas instrument provides value to stakeholders.

2. The regulatory framework

30. This section summarises the requirements of the NGL and NGR that establish the regulatory framework for the rate of return decision making process and the gas instrument review. The full text of the NGL and NGR are reproduced in Appendix 3.

2.1 The National Gas Law

31. The NGL provides for a legislated, uniform national framework governing access to monopoly gas infrastructure. The national gas objective sets out the aim of the NGL:⁸

The objective of this Law is to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to –

- (a) price, quality, safety, reliability and security of supply of natural gas; and
- (b) the achievement of targets set by a participating jurisdiction-
 - (i) for reducing Australia's greenhouse gas emissions; or
 - (ii) that are likely to contribute to reducing Australia's greenhouse gas emissions.

32. The NGL states that the gas instrument must set out the way to calculate the rate of return on capital and value of imputation credits that will be applied by the ERA in performing or exercising our economic regulatory functions (section 30D).

33. The NGL sets out the content of a rate of return instrument, stating that the instrument may include matters that we consider appropriate (section 30E). Additionally, the NGL sets out that we must publish explanatory information for a rate of return instrument (section 30L).

34. We set the allowed rate of return to achieve the national gas objective. The NGL and the national gas objective are intended to promote economic efficiency:⁹

The national gas objective is an economic concept and should be interpreted as such.

The long term interest of consumers of gas requires the economic welfare of consumers, over the long term, to be maximised. If gas markets and access to pipeline services are efficient in an economic sense, the long term economic interests of consumers in respect of price, quality, reliability, safety and security of natural gas services will be maximised.

35. In setting the allowed rate of return, the NGL states that the ERA must have regard to the revenue and pricing principles (section 30D). The revenue and pricing principles in the NGL give effect to the national gas objective.¹⁰ The revenue and pricing principles establish that the national gas objective is to be promoted by targeting economically efficient outcomes, through effective incentives.

⁸ NGL, section 23.

⁹ Holloway, P., *Second Reading Speech: National Gas (South Australia) Bill 2008, Parliamentary Debates (SA)*, Legislative Council, 30 April 2008.

¹⁰ Holloway, P., *Second Reading Speech: National Gas (South Australia) Bill 2008, Parliamentary Debates (SA)*, Legislative Council, 30 April 2008.

2.2 The National Gas Rules

36. The rate of return is required under the NGR to calculate the return on the asset base (rule 87).
37. The 2026 gas instrument will set out the way to calculate the allowed rate of return, including the way to calculate the value of imputation credits, for service providers for applicable access arrangements while it is in force and will be binding on the ERA and service providers.

3. Timeline

38. Indicative high-level milestones for the 2026 gas instrument review are shown in Table 1:

Table 1: Indicative milestones for the 2026 gas rate of return instrument review

Milestone	Description	Date
Engagement process paper (this document)	This paper details the process for the 2026 gas instrument review and seeks nominations for the bodies that the ERA must establish and have regard to according to the NGL consultation requirements.	October 2025
Processes to appoint experts and representatives to the consumer reference group, and the independent panel*	These processes will be conducted as described in section 4 of this paper.	September to December 2025
ERA discussion paper	The ERA will publish a discussion paper outlining its views on the technical issues for the 2026 gas rate of return instrument and inviting public submissions.	November 2025
Public submissions on the discussion paper	The ERA will receive written submissions in response to its discussion paper.	December 2025
2026 draft gas instrument	The ERA will publish a draft gas rate of return instrument and explanatory information, which will subsequently be reviewed by the independent panel.	June 2026
Independent panel report	The independent panel will provide a report, which will be published on the ERA's website, including the panel's assessment of the evidence and reasons supporting the rate of return on capital and the value of imputation credits under the draft 2026 gas instrument.	August 2026
Public submissions on draft gas instrument and independent panel report	The ERA will invite public submissions on the draft 2026 gas instrument and the independent panel report.	September 2026
2026 final gas instrument	The 2026 gas instrument will be published and will be a binding instrument, applying to all regulatory determinations made while it is in force.	December 2026

Note: : Advice, recommendations and submissions from the consumer reference group may be received at any time after its appointment until the publication of the final gas instrument.

4. Review elements

39. The ERA has the following review requirements for the 2026 gas instrument review:
- consumer reference group
 - concurrent expert evidence
 - independent panel review.
40. To meet these requirements the ERA has considered the experience of the ERA and the Australian Energy Regulator's (AER) with the consultation processes and stakeholder feedback from the 2022 rate of return reviews.
41. Consistent with our approach to the 2022 gas instrument review, the ERA has explored ways to meet the consultation requirements while recognising that there are not many people with relevant expertise in Western Australia, and that costs should be minimised because the ERA's development of the rate of return instrument is industry-funded by a small number of entities.
42. The ERA will endeavour to meet these requirements as best as it can.¹¹

4.1 Independent panel

43. For the 2026 gas instrument review, we will use the independent panel to review our draft gas instrument in a similar manner to our 2022 gas instrument review.
44. The objective of the independent panel will be to assist the ERA in making the best possible gas instrument by providing an independent perspective on its development (section 30K).

4.1.1 *Role of the panel*

45. The independent panel is to review the draft gas instrument and report its assessment of the evidence and reasons supporting the rate of return on capital or the value of imputation credits under the draft gas instrument.
46. The main purposes of the independent panel process are to give the ERA the benefit of an independent review, and to promote confidence amongst stakeholders that the ERA's proposed approach for the gas instrument is robust.
47. The independent panel does not have to be a panel of experts in rates of return specifically, but must have qualifications or experience in a relevant field.
48. The ERA is not required to adopt any recommendations from the independent panel report, but rather has to consider them.
49. The panel's role is to review the draft gas instrument in the context of the evidence available at the time of making the draft gas instrument.

¹¹ NGL, section 30M. Failure to comply with these requirements does not invalidate or otherwise affect a rate of return instrument.

50. The ERA will ask the independent panel to address the following question as part of its terms of reference:
 - In the panel's view, is the draft guideline supported by sound reasoning based on the available information such that it is capable of promoting achievement of the national gas objective?
51. To answer this question the independent panel will:
 - Produce a report on the draft gas instrument that the ERA will consider when making the final 2026 gas instrument
 - Comment on the draft gas instrument but will not propose its own alternative or amended instrument.
52. The terms of reference will require the independent panel to consider the following factors:
 - The effect of the gas instrument as a whole rather than issue-by-issue analysis
 - The revenue and pricing principles in the NGL
 - The rate of return provisions in the NGL and NGR
 - Whether the ERA has had regard to relevant information to reach its conclusions
 - Whether there is a clear link between the ERA's conclusions and the information on which it relied to form those conclusions
 - Whether, in the view of panel members, the method set out in the draft gas instrument will allow stakeholders to replicate the ERA's estimate at a point in time
 - Interactions with other components of the ERA's regulatory determinations and the relevant rules affecting estimation of those components.
53. The panel's role is to facilitate the development of a gas instrument that meets legislative objectives, not to propose specific values or make decisions on the ERA's behalf. Regulatory judgement is necessary because evidence or approaches can be conflicting or equally compelling, and the exercise of judgement is the ERA's responsibility. The panel should assess whether our process was effective, all relevant material was considered and our decisions supported by clear reasons and available information.
54. The ERA will consider the panel's report when making its final gas instrument. However, the panel's findings will not be binding on the ERA. The panel's report will be an important and useful source of evidence for the ERA when preparing the final gas instrument. Stakeholders will also be given the opportunity to comment on the panel's report.

4.1.2 *Establishment of panel*

55. For the 2022 gas instrument review, the ERA's engagement of the independent panel focused on meeting the following requirements at the lowest cost:
 - three-member panel
 - diverse backgrounds
 - no international members.

56. The ERA proposes to apply a similar approach to engaging the independent panel for the 2026 gas instrument review.
57. The ERA invites stakeholders and interested parties to nominate members for the independent panel. The ERA will also identify and contact potential panel members following the release of this paper.
58. Members of the independent panel will be paid for their time.
59. The ERA will use the attached terms of reference (Appendix 4) as a guide to the expected role of the panel.
60. The ERA will appoint the panel members.
61. Where stakeholders wish to recommend an individual, they should do so confidentially to avoid creating difficulties for those nominated in case they are either unavailable or ultimately not selected to join the panel. The ERA will not disclose individuals nominated.
62. The ERA will seek to establish a panel with relevant backgrounds. The skills and background the ERA is seeking for the independent panel are:
 - Experience in finance and/or economics to assist the panel to understand the technical aspects of the gas instrument development process
 - Experience in the regulation of utilities, public policy and/or in oversight bodies to assist the panel understand the regulatory context
 - Experience in consumer roles to assist the panel's understanding of the long-term interests of consumers
 - Institutional investment experience to assist the panel evaluate whether the estimation method for the rate of return will promote investor confidence and efficient investment.
63. The ERA will aim to appoint three panel members to capture a range of relevant experience.
64. The ERA will only engage panel members with suitable availability over the duration of the panel's report preparation. The ERA will negotiate with prospective panel members to establish working arrangements that are suitable for both the ERA and prospective panel members. Indicatively, the ERA will seek panel members with availabilities as follows:
 - Panel members should be available for 10 weeks following the commencement of the panel
 - The ERA does not expect that independent panel members will work full time over the 10 weeks. Rather, the ERA will aim to engage panel members for the equivalent of 1 full day per week
 - The Chair will be required full time for a notional 15 days over the 10-week period.

4.1.3 *Independence and transparency*

65. The panel will have full access to information that the ERA considered to develop the draft gas instrument and will be able to request clarification from the ERA when necessary.
66. The ERA recognises the importance of the panel being independent in its deliberations.
67. To give stakeholders confidence in the panel's independence, mechanisms will be put in place to preserve the panel's independence and ensure transparency. These mechanisms are particularly important as the ERA will fund participation of independent panel members.
68. To ensure the independence and transparency of the panel's review the following steps will be taken:
 - The ERA will engage the panel using a published terms of reference
 - The ERA will review and publish the panel's report on the ERA's website
 - The panel will have responsibility for drafting its own report, which will be published in full (subject to a confidentiality check) on the ERA's website
 - The ERA expects panel members to strive to reach consensus but will not restrict panel members from expressing differences within the report if that is the ultimate view of the members.¹²

Request for nominations – Independent panel

The ERA invites stakeholders and interested parties to nominate members for the independent panel as part of the consultation process for the 2026 review of the gas instrument.

4.2 **Consumer reference group**

69. The NGL requires that the ERA use a Consumer Reference Group (CRG) as part of the consultation process for the 2026 gas instrument review (sections 30H and 30I).

4.2.1 *Role of the consumer reference group*

70. The intent of the CRG is to provide direct and ongoing feedback to the ERA during the gas instrument review process that represents broad consumer perspectives. This is to balance what may otherwise be seen as a process in which only gas pipelines have input to the ERA's determination.
71. The ERA is not required to adopt any recommendations from the CRG, but rather must consider them in developing the gas instrument.¹³

¹² NGL, section 30K sets out that the panel must seek to give its report by consensus, and the report must state whether the report is given by consensus.

¹³ NGL, sections 30H and 30I.

4.2.2 *Establishment of the group*

72. The CRG will be formed through a nomination process managed by the ERA and designed to represent a range of consumer interests in the development of the gas instrument.
73. Members of the CRG will be paid for their time. The CRG will be funded by the ERA.
74. The CRG should be small enough to ensure that the group could reach a unified opinion and large enough that it will represent a range of consumers. Where possible and appropriate, the ERA will draw on existing consumer interest groups and bodies.
75. The ERA will use the attached terms of reference (Appendix 5) as a guide to the expected role of the CRG.
76. The ERA proposes to establish a CRG of three to five members, to be appointed by the ERA. The final membership of the CRG will encompass representatives with a diverse range of skills and experience, which may include:
 - consumer advocacy, insight and engagement
 - regulatory decision-making
 - knowledge of the energy sector or other utilities
 - financial and economic analysis.
77. It is important that the CRG has a core consumer focus and advocates strongly for all consumers, including future consumers. The CRG may directly engage with consumers as the gas instrument review progresses so they are able to represent consumer views effectively.
78. The CRG should be formed early to maximise the opportunity for the reference group to contribute throughout the process.
79. The CRG should be available to provide input throughout the ERA's 2026 gas instrument review, with particular focus on submissions on the ERA's discussion paper and the 2026 draft gas instrument.
80. The ERA does not expect that CRG members will work full time over the period.

Request for nominations – Consumer reference group

The ERA invites stakeholders and interested parties to nominate members for the consumer reference group as part of the consultation process for the 2026 review of the gas instrument.

4.2.3 *Support*

81. Drawing from the lessons learnt from the 2022 rate of return instrument CRG, the CRG for the ERA's 2026 gas instrument review will likely need substantial education on the regulatory framework and the weighted average cost of capital and will need administrative help. The CRG may also need a consultant to assist with drafting submissions and answering technical questions.

82. The ERA will support the role of the CRG early in the process and assist the CRG to build its knowledge of rate of return topics.
83. To facilitate input from the CRG, the ERA will provide funding for the group so they can gather information and contribute to stakeholder engagement processes. This may include sourcing and funding experts to assist the CRG with submissions and discussions.
84. In accordance with the NGL, the ERA will publish any written advice, recommendations or submissions given to the ERA by the CRG on the ERA's website.

4.3 Expert evidence

85. The NGL requires that the ERA seek expert evidence for the 2026 gas instrument review (section 30H).

4.3.1 *Role of expert evidence*

86. Expert evidence involves the ERA receiving expert advice on specific rate of return matters to assist in its consideration.
87. The ERA is required to seek expert evidence on the rate of return to assist it with its considerations for the 2026 gas instrument review. The ultimate purpose of expert evidence is to assist the ERA to make decisions that result in a gas instrument that will, or is most likely to, contribute to the achievement of the national gas objective.
88. The ERA is not required to adopt any positions coming from the expert evidence, but rather must consider them.¹⁴

4.3.2 *ERA process for expert evidence*

89. The ERA's 2022 gas instrument review leveraged the AER's 2022 concurrent evidence sessions. The AER engaged multiple experts on the rate of return and covered a broad range of rate of return matters.
90. In considering and developing its 2022 gas instrument, the ERA used the information and positions put forth from the AER expert sessions. This allowed the ERA to access expert evidence from experts it would otherwise not be able to engage.
91. In this context, the ERA has explored its approach to seek expert evidence for the 2026 gas instrument review. The ERA will seek the expert evidence in the way it considers appropriate.
92. This consultation requirement continues to be difficult for the ERA to successfully achieve as Australian expert consultants will likely be committed to the AER's concurrent evidence sessions. This timing coincides with the expected timing of the ERA's requirement for expert evidence. This also increases the risk of not having a fair balance of perspectives represented.

¹⁴ NGL, section 30H.

93. The ERA's 2026 gas rate of return instrument review is funded by the three gas pipelines it regulates and any large expenditure required for the expert evidence review would be passed on to these service providers and their consumers.
94. Given the anticipated constraints on the availability of relevant experts and the costs of such processes, and the ERA's discretion in section 30H(3), the ERA will pursue a similar process to the 2022 gas instrument. The ERA considers that the most practical and effective approach for seeking expert evidence will be to:
- Gather expert evidence from the concurrent evidence sessions conducted by the AER. Independently consider this expert evidence and how it applies to the ERA's gas instrument and approach.
 - Call for nominations of eligible experts. The ERA may choose to supplement the evidence from the AER's concurrent expert sessions through seeking further evidence on issues relevant to the ERA's 2026 gas instrument review.
95. The AER's intended process for its concurrent evidence for the 2026 rate of return instrument review process is as follows:
- Appointment of eligible experts to act during July 2025 to December 2025.¹⁵
 - A single report published by the AER's appointed eligible experts in October 2025.
 - Closing date for submissions on the eligible expert's report in November 2025.¹⁶

Request for nominations – Eligible experts

The ERA invites eligible experts to nominate as part of the consultation process for the 2026 review of the gas instrument.

¹⁵ AER, *AER invites expressions of interest for Eligible Experts for the 2026 Rate of Return Instrument review*, July 2025, ([online](#))

¹⁶ AER, *Rate of Return Instrument – Review process paper*, March 2025, p. 5.

Appendix 1 List of Tables

Table 1:	Indicative milestones for the 2026 gas rate of return instrument review	7
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Appendix 2 Abbreviations

AER	Australian Energy Regulator
CRG	Consumer Reference Group
ERA	Economic Regulation Authority
NGL	National Gas Law
NGR	National Gas Rules

Appendix 3 Regulatory requirements

The *National Gas Access (WA) Act 2009* implements a modified version of the National Gas Law (NGL) and National Gas Rules (NGR) in Western Australia. The regulations referred to are those that apply in Western Australia.

National Gas Law

The national gas objective (NGO) sets out the aim of the NGL:

24 National gas objective

The objective of this Law is to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to –

- (a) price, quality, safety, reliability and security of supply of natural gas; and
- (b) the achievement of targets set by a participating jurisdiction-
 - (i) for reducing Australia's greenhouse gas emissions; or
 - (ii) that are likely to contribute to reducing Australia's greenhouse gas emissions.

The revenue and pricing principles support the achievement of the NGO and the making of a rate of return instrument.

24 Revenue and pricing principles

- (1) The revenue and pricing principles are the principles set out in subsections (2) to (7).
- (2) A service provider should be provided with a reasonable opportunity to recover at least the efficient costs the service provider incurs in—
 - (a) providing reference services; and
 - (b) complying with a regulatory obligation or requirement or making a regulatory payment.
- (3) A service provider should be provided with effective incentives in order to promote economic efficiency with respect to reference services the service provider provides. The economic efficiency that should be promoted includes—
 - (a) efficient investment in, or in connection with, a pipeline with which the service provider provides reference services; and
 - (b) the efficient provision of pipeline services; and
 - (c) the efficient use of the pipeline.
- (4) Regard should be had to the capital base with respect to a pipeline adopted—
 - (a) in any previous—
 - (i) full access arrangement decision; or
 - (ii) decision of a relevant Regulator under section 2 of the Gas Code;
 - (b) in the [NGR].
- (5) A reference tariff should allow for a return commensurate with the regulatory and commercial risks involved in providing the reference service to which that tariff relates.
- (6) Regard should be had to the economic costs and risks of the potential for under and over investment by a service provider in a pipeline with which the service provider provides pipeline services.
- (7) Regard should be had to the economic costs and risks of the potential for under and over utilisation of a pipeline with which a service provider provides pipeline services.

The ERA is to make a rate of return instrument that specifies the methodology to calculate the rate of return on capital, and a method or value for imputation credits.

30D [ERA] to make rate of return instrument

- (1) This section applies if a rate of return on capital or the value of imputation credits is required for performing or exercising an [ERA] economic regulatory function or power.
- (2) The [ERA] must make an instrument (a rate of return instrument) stating—
 - (a) for a rate of return on capital—the way to calculate the rate; and
 - (b) for the value of imputation credits—the value or the way to calculate the value.
- (3) The [ERA] may make an instrument only if satisfied the instrument will, or is most likely to, contribute to the achievement of the national gas objective to the greatest degree.
- (4) Subject to subsection (3), the way to calculate a rate of return on capital must include a weighted average of an allowed return on equity and an allowed return on debt.
- (5) In making an instrument, the [ERA] must have regard to—
 - (a) the revenue and pricing principles; and
 - (b) other information the [ERA] considers appropriate.

The content of the rate of return instrument is specified by section 30E:

30E Content of rate of return instrument

- (1) If a rate of return instrument states the value of imputation credits, the instrument must state a single value to apply in relation to all covered pipeline service providers.
- (2) If a rate of return instrument states a way to calculate the rate of return on capital or the value of imputation credits, the instrument must—
 - (a) provide for the same methodology to apply in relation to all covered pipeline service providers in calculating the rate or value; and
 - (b) provide for the methodology to apply automatically without the exercise of any discretion by the [ERA]

Example for paragraph (b)—

The instrument cannot include different methodologies or a band of values from which the [ERA] could choose in applying the instrument.

- (3) Subject to subsections (1) and (2), the instrument may include other matters the [ERA] considers appropriate.

Example—

Matters to help a covered pipeline service provider calculate a rate of return or the value of imputation credits.

30L Publication of explanatory information

The [ERA] must publish explanatory information for a rate of return instrument on its website when the instrument is published under section 30N.

The consultation requirements for making the rate of return instrument is specified by section 30H and 30I.

30H – Requirements before publishing draft instrument

- (1) Before publishing a draft rate of return instrument under this Subdivision, the [ERA] must—
 - (a) establish a reference group to help the [ERA] implement an effective consumer consultation process for making the proposed instrument (a consumer reference group); and

...

(c) seek concurrent expert opinions or evidence about the proposed instrument.

...

- (3) Subject to subsections (4) and (5), the [ERA] may seek the expert opinions or evidence in the way it considers appropriate.

Example—

The [ERA] might convene a conference of experts to identify key issues, and areas of dispute and agreement among the experts, about the content of the proposed instrument.

- (4) The [ERA] must call for nominations of eligible experts but may seek the expert opinions or evidence from any eligible expert.
- (5) If practicable, the [ERA] must seek the expert opinions or evidence from at least 3 eligible experts.
- (6) The [ERA] must publish on its website—
- (a) submissions made under this section; and
 - (b) a report on the outcomes of seeking the expert opinions or evidence.
- (7) In this section—

eligible expert means a person with qualifications or experience in a field the [ERA] considers relevant to making a rate of return instrument.

Examples of relevant fields—

Finance, economics, law, consumer affairs, institutional investment.

30I – Consumer reference group

- (1) A consumer reference group for making a rate of return instrument—
- (a) is to consist of the members appointed by the [ERA]; and
 - (b) may carry out its activities, including giving advice or recommendations to the [ERA] about the instrument, in the way it considers appropriate.
- (2) Without limiting subsection (1)(b), the consumer reference group may—
- (a) consult with consumers of natural gas; and
 - (b) facilitate consumer engagement in the process for making the instrument; and
 - (c) make written submissions to the [ERA] about the content of the instrument and the process for making it.
- (3) The [ERA] must publish on its website any written advice, recommendations or submissions given to it by the consumer reference group.

30K – Report about draft instrument by independent panel

- (1) The [ERA] must, as soon as practicable after publishing the draft instrument, establish an independent panel to give the [ERA] a written report about the instrument.
- (2) The panel—
- (a) may carry out its activities, including giving the report, in the way it considers appropriate; but
 - (b) must seek to give the report by consensus.
- (3) The panel must—
- (a) consist of at least 3 members, appointed by the [ERA], who have qualifications or experience in a field the [ERA] considers relevant to making a rate of return instrument; and

Examples of relevant fields—

Finance, economics, law, consumer affairs, institutional investment.

- (b) give the report to the [ERA] before the [ERA] makes the instrument.
- (4) The [ERA] must take reasonable steps to minimise and manage any conflicts of interest a panel member may have in relation to making the instrument.
- (5) The report must—
 - (a) include the panel's assessment of the evidence and reasons supporting the rate of return on capital or the value of imputation credits under the instrument; and
 - (b) state whether the report is given by consensus.
- (6) The [ERA] must publish the report on its website.

National Gas Rules

87—Rate of return

The return on the projected capital base for a service provider for a regulatory year of an access arrangement period for an applicable access arrangement (RPCB_t) is to be calculated using the following formula:

$$\text{RPCB}_t = a_t \times v_t$$

where:

a_t is the allowed rate of return for the regulatory year; and

v_t is the value, as at the beginning of the regulatory year, of the projected capital base for the regulatory year (as established under rule 78 and subject to rule 82(3)).

Appendix 4 Terms of reference for the Independent Panel

Background

The ERA will publish a draft gas rate of return instrument (draft gas instrument) which sets out the method the ERA plans to use to estimate the rate of return in its revenue determinations for gas pipeline service providers.

This draft gas instrument will be made under a framework set out in the National Gas Law and the National Gas Rules, guided by the national gas objective:

The objective of this Law is to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to –

- (a) price, quality, safety, reliability and security of supply of natural gas; and
- (b) the achievement of targets set by a participating jurisdiction-
 - (i) for reducing Australia's greenhouse gas emissions; or
 - (ii) that are likely to contribute to reducing Australia's greenhouse gas emissions.

Task

In your view, is the draft instrument supported by sound reasoning based on the available information such that it is capable of promoting achievement of the national gas objective?

In your review, please have regard to the following factors:

- The effect of the draft gas instrument as a whole rather than issue-by-issue analysis.
- The revenue and pricing principles in the National Gas Law.
- The rate of return provisions in the National Gas Law and the National Gas Rules.
- Whether the ERA has had regard to relevant information in reaching its conclusions.
- Whether there is a clear link between the ERA's conclusions and the information on which it relied to form those conclusions.
- Whether, in the panel's view, the method set out in the draft gas instrument will allow stakeholders to replicate the ERA's estimate at a point in time.
- Interactions with other components of the ERA's regulatory determinations and the relevant rules affecting estimation of those components.

Please set out your conclusions in a publishable report that will be available to all stakeholders via the ERA's website. Where the panel does not agree on conclusions or recommendations in the report, the report should set out the range of final views by panel members without specifically attributing them to individuals.

Information

To assist in your review, you will have access to all source material available to the ERA in making its draft gas instrument, including but not limited to:

- submissions
- independent expert reports
- underlying datasets

- relevant calculations or models.

The panel is also able to ask questions of the ERA.

The panel should take minutes of meetings.

Timing

The report is due no later than 50 business days after release of the draft instrument.

Secretariat support

The panel will have access to secretariat support from ERA staff for organising meetings, document templates, publication of the report, office space (where necessary) and IT support.

However, drafting of the report will be the panel's responsibility.

Conflicts of Interest

The ERA must take reasonable steps to minimise and manage any conflicts of interest that a panel member may have regarding their participation in the consultation process for the 2026 gas instrument review. Independent panel members will be required to consider, disclose and manage any conflicts of interest.

Confidentiality

Independent panel members will be required to sign a confidentiality undertaking with the ERA to allow access to confidential and proprietary information.

Five business days prior to publication of the report on the ERA's website, the panel will provide the ERA with the final report for confidentiality checking. The ERA will confirm any suggested redactions with the panel prior to publication.

Appendix 5 Terms of reference for the Consumer Reference Group

Background

The ERA will publish a draft gas rate of return instrument (draft gas instrument) which sets out the method the ERA plans to use to estimate the rate of return in its revenue determinations for gas pipeline service providers.

This draft gas instrument will be made under a framework set out in the National Gas Law and the National Gas Rules, guided by the national gas objective:

The objective of this Law is to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to –

- (a) price, quality, safety, reliability and security of supply of natural gas; and
- (b) the achievement of targets set by a participating jurisdiction-
 - (i) for reducing Australia's greenhouse gas emissions; or
 - (ii) that are likely to contribute to reducing Australia's greenhouse gas emissions.

Task

The Consumer Reference Group (CRG) will help the ERA to ensure consumer input into its 2026 gas rate of return instrument review.

The CRG, may carry out its activities, including giving advice or recommendations to the ERA about its review in the way it considers appropriate. This may include consultation with gas consumers, facilitating consumer engagement and making written submissions to the ERA about its positions and the processes undertaken to reach those positions.

The ERA will publish on our website any written advice, recommendations or submissions given to it by the CRG.

The CRG is not a decision-making forum, nor is its role to negotiate on behalf of consumers or industry. Its role is to act in an advisory capacity to help inform the ERA's decisions with regards to consumer interests. The CRG provides inputs and challenge which might not come through other means.

The CRG will provide its advice through:

- written statements of advice
- presentations to public forums in the review processes.

The ERA will give due weight and consideration to CRG advice provided. The ERA will provide a clear rationale for its decision and will provide feedback to CRG members as to how their views have been considered.

Timing

The CRG should be available to provide input throughout the ERA's 2026 gas instrument review.

With particular focus on submissions on the ERA's discussion paper and the 2026 draft gas instrument.

Secretariat support

The CRG will have access to secretariat support from ERA staff for organising meetings, document templates, publication of the report, office space (where necessary) and IT support.

However, drafting of the submissions will be the CRG's responsibility.

Conflicts of Interest and Confidentiality

The ERA must take reasonable steps to minimise and manage any conflicts of interest that a CRG member may have regarding their participation in the consultation process for the 2026 gas instrument review. CRG members will be required to consider, disclose and manage any conflicts of interest.

CRG members will be required to sign a confidentiality undertaking with the ERA to allow access to confidential and proprietary information.